

## UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

United States of America

v.

Benjamin McDonald

Case No. 3:21-MJ-301

*Defendant(s)*

## CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 8/4/2021 in the county of Montgomery in the  
Southern District of Ohio, the defendant(s) violated:*Code Section**Offense Description*

18 USC s. 111(a)-(b)

forcibly assaulted, resisted, impeded and intefered with a federal agent, and  
in doing so, used a deadly weapon -- namely, an automobile

This criminal complaint is based on these facts:

See Attached Affidavit of Nicholas A. Graziosi

☒ Continued on the attached sheet.*Nicholas A. Graziosi*  
*Complainant's signature*Nicholas A. Graziosi, SA of FBI  
*Printed name and title*

Sworn to before me and signed in my presence.

Date: August 6, 2021City and state: Dayton, Ohio*Peter B. Silvain, Jr.*  
Peter B. Silvain, Jr.  
United States Magistrate Judge

## **SUPPORTING AFFIDAVIT**

Your Affiant, Nicholas A. Graziosi, being duly sworn, does hereby depose and state as follows:

### **INTRODUCTION**

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI), and, have been since March 2017. I am currently assigned to the Cincinnati Field Office, Dayton Resident Agency. Since 2017, I received training and experience in interviewing and interrogation techniques; arrest, search and seizure procedures; narcotics investigations; and various other criminal investigations resulting in successful prosecution. I have investigated the commission of federal crimes involving criminal offenses, to include violent crimes, drug trafficking, and firearm violations. In the course of these duties, I have participated in numerous federal search and arrest operations and conducted associated interviews which have resulted in the collection of evidence and admissions of multiple criminal violations. Further, your Affiant knows that it is a violation of Title 18, United States Code, Section 111 to forcibly assault, resist, oppose, impede or interfere with a federal officer while that federal officer is engaged in his/her official duties.

### **PURPOSE OF AFFIDAVIT**

2. This affidavit is made in support of an application for a federal arrest warrant and complaint against Benjamin McDonald (hereinafter referred to as “**MCDONALD**”) for:

a. Knowingly and intentionally forcibly assaulted, resisted, opposed, impeded, or interfered with a federal agent, and in doing so, used a dangerous weapon – namely, a car – in violation of Title 18, U.S.C. Sections 111(a)-(b)

3. The facts in this affidavit come from information obtained from other agents, law enforcement officers and witnesses. This affidavit is only intended to establish the existence of

sufficient probable to justify the issuance of the requested arrest warrant. It does not purport to set forth all the facts presently known to the subject investigation.

#### **SUMMARY OF PROBABLE CAUSE**

4. On August 4, 2021, FBI Special Agent Robert Buzzard was on-duty and working in his official capacity as a law enforcement official assisting Dayton Police Officers and Detectives during a gun-reduction surveillance operation. During the operation, Dayton Patrol Officers Philip Watts and Caleb Lawson, driving a marked Dayton Police cruiser and wearing their police uniforms, were responding to an injury accident at the intersection of Little Richmond Rd. and James H. McGee Blvd., Dayton, Ohio. Officers Watts and Lawson had their emergency lights and siren activated during their response and were traveling northwest on James H. McGee Blvd. Nearing the intersection of Hoover Ave., Officers Watts and Lawson noticed a black Pontiac Bonneville, bearing Ohio license plate number JKQ7071, failing to yield to their emergency equipment. Instead, the Pontiac Bonneville accelerated at a high rate of speed, ran the red light at the intersection of James H. McGee Blvd. and Hoover Ave., and struck a gold vehicle. The Pontiac Bonneville continued northwest on James H. McGee Blvd. after striking the vehicle.

5. FBI Special Agent Robert Buzzard was driving his government issued vehicle and stationary at the intersection of James H. McGee Blvd. and Gettysburg Ave. at a red light. The Pontiac Bonneville driven by **MCDONALD** crashed into Special Agent Buzzard's vehicle at the intersection and continued to flee at a high rate of speed northwest on James H. McGee Blvd. toward Little Richmond Rd. Special Agent Buzzard notified Dayton Officers and an Ohio State Highway Patrol aircraft of the crash and the fleeing Pontiac Bonneville. The State Highway Patrol aircraft was able to maintain surveillance on the vehicle as it continued to flee at speeds up to 100mph. The vehicle ultimately parked at a residence in Clayton, Ohio where officers

apprehended **MCDONALD**.

6. At the scene, Special Agent Buzzard and FBI Task Force Officer and Dayton Police Department Detective Dustin Phillips interviewed **MCDONALD** while detained in the back of a Dayton Police Department marked cruiser. Prior to answering any questions, Task Force Officer Phillips read **MCDONALD** his Miranda Rights. **MCDONALD** indicated he understood his rights and agreed to answer questions. **MCDONALD** stated that he saw a police cruiser with emergency lights activated and believed he was being pulled over. **MCDONALD** admitted that he attempted to flee from the traffic stop. **MCDONALD** further admitted that during his attempt to flee the traffic stop and elude law enforcement, he struck at least two vehicles, one of which being Special Agent Buzzard's official government vehicle. **MCDONALD** admitted that during his attempts to flee the traffic stop and elude law enforcement, he traveled at high rates of speed, going approximately 100 mph. **MCDONALD** admitted that his actions endangered the public. **MCDONALD** stated that he did not possess a valid driver's license. **MCDONALD** further admitted that he had a prior conviction for fleeing from the police.

7. A search of **MCDONALD**'s criminal history revealed Montgomery County Common Pleas Court, Ohio, Case No. 2018 CR 01179, wherein **MCDONALD** plead guilty to, and was convicted of Counts 1-2: Failure to Comply, pursuant to O.R.C. 2921.331(B), a misdemeanor 1 offense; Counts 3-4: Failure to Comply with Order or Signal of Police Officer (Serious Physical Harm/Substantial Risk), pursuant to O.R.C. 2921.331(B)&(C)(5), a felony 3 offense; and Count 5: Vehicular Assault (Suspension), pursuant to 2903.08(A)(2), a felony 3 offense. **MCDONALD** was sentenced to twelve (12) mandatory months of imprisonment on Count 5. The Court further imposed Community Control Sanctions on Counts 1 through 4 for a period not to exceed five (5) years. Further, the court imposed a mandatory lifetime suspension

of **MCDONALD**'s driver's license on Counts 3 & 4, and a mandatory one (1) year suspension of **MCDONALD**'s driver's license on Count 5.

**CONCLUSION**

8. Based on the above information provided herein, your Affiant believes that probable cause exists to conclude that on August 4, 2021, **BENJAMIN MCDONALD**, while in the Southern District of Ohio:

- a. Knowingly and intentionally forcibly assaulted, resisted, opposed, impeded, or interfered with a federal task force officer, and in doing so, used a dangerous weapon – namely, a car – in violation of Title 18, U.S.C. Sections 111(a)-(b)

*Nicholas A. Graziosi*

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NICHOLAS A. GRAZIOSI  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me  
this 6th day of August 2021.

  
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Peter B. Silvain, Jr.  
United States Magistrate Judge

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